

FILED

U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

Aug 18, 2021

Tammy H. Downs, Clerk
By: Brady Hibbs D.C.

DEP CLERK

**IN RE: PROFEMUR HIP IMPLANT PRODUCTS
LIABILITY LITIGATION**

MDL No. 2949

(SEE ATTACHED SCHEDULE)

CONDITIONAL REMAND ORDER

The transferee court in this litigation has advised the Panel that coordinated or consolidated pretrial proceedings in the action(s) on this conditional remand order have been completed and that remand to the transferor court(s), as provided in 28 U.S.C. § 1407(a), is appropriate.

IT IS THEREFORE ORDERED that the action(s) on this conditional remand order be remanded to its/their respective transferor court(s).

IT IS ALSO ORDERED that, pursuant to Rule 10.2 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, the transmittal of this order to the transferee clerk for filing shall be stayed 7 days from the date of this order. If any party files a notice of opposition with the Clerk of the Panel within this 7-day period, the stay will be continued until further order of the Panel. This order does not become effective until it is filed in the office of the Clerk for the United States District Court for the Eastern District of Arkansas.

IT IS FURTHER ORDERED that, pursuant to Rule 10.4(a), the parties shall furnish the Clerk for the Eastern District of Arkansas with a stipulation or designation of the contents of the record to be remanded.

Inasmuch as no objection is pending at this time, the stay is lifted.
Aug 18, 2021
CLERK'S OFFICE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

FOR THE PANEL:



John W. Nichols
Clerk of the Panel

**IN RE: PROFEMUR HIP IMPLANT PRODUCTS
LIABILITY LITIGATION**

MDL No. 2949

SCHEUDLE FOR CRO

TRANSFEREE	TRANSFEROR	
<u>DIST DIV.</u>	<u>C.A.NO.</u>	<u>DIST DIV.</u>
ARE 4	20-01061	FLM 6
		20-01324
		Mierke v. Wright Medical Technology Inc

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

IN RE: PROFEMUR HIP IMPLANT PRODUCTS LIABILITY LITIGATION) **MDL No. 2949**
) **4:20-md-2949 KGB**
)
) **This Document Relates To:**
) **4:20-cv-01061-KGB**

ORDER SUGGESTING REMAND

Before the Court is plaintiff Norman Mierke's unopposed motion for remand which the Court will treat as a motion for suggestion of remand (Dkt. No. 29). Defendant Wright Medical Technology, Inc., does not oppose the motion. For the reasons stated below, the Court grants the motion and suggests remand of this case to the transferor court.

I. Background

The Judicial Panel on Multidistrict Litigation ("JPML") has transferred to this Court for centralized pretrial proceedings actions that concern alleged defects in the Wright Medical and MicroPort Profemur line of modular hip implants, which were offered in titanium and cobalt chromium alloys (the "MDL"). Mr. Mierke's case was among those transferred to the MDL pursuant to the JPML's conditional transfer order (CTO-2) dated September 2, 2020, from the United States District Court for the Middle District of Florida, Orlando, Division (Dkt. No. 13).

II. Suggestion Of Remand

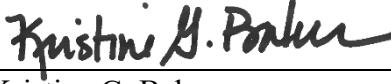
Mr. Mierke states that his case was transferred because, at the time, the parties believed it was related to the MDL (Dkt. No. 29, at 1-2). Mr. Mierke states, however, that his medical records do not support the criteria for inclusion of his case in the MDL as set forth in the Court's case management Order No. 1 (Dkt. No. 27). Mr. Mierke requests that the Court suggest that the JPML remand his case back to the United States District Court for the Middle District of Florida, Orlando,

Division (Dkt. No. 29). Mr. Mierke states that counsel for defendant Wright Medical Technology, Inc., has reviewed this motion and his pertinent medical records and has no objection to the JPML remanding this case to the transferor court (*Id.*, at 3).

III. Conclusion

Based on the foregoing reasons and pursuant to Rule 10.1(b)(i) of the Rules of the Judicial Panel on Multidistrict Litigation, the Court grants Mr. Mierke's motion for suggestion of remand and suggests that the JPML remand *Mierke v. Wright Medical Technology, Inc.*, Case No.4:20-cv-01061, to the United States District Court, Middle District of Florida, Orlando Division for all further proceedings (*Id.*). The Clerk of the Court is directed to provide copies of this Order to the Clerk of the JPML and the clerks of the transferor district court.

So ordered this 6th day of August, 2021.



Kristine G. Baker
United States District Judge